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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,924	11/13/2001	Minoru Hayakawa	107350-00004	6344

4372 7590 03/04/2003

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EXAMINER

UPTON, CHRISTOPHER

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 03/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

986924

Applicant(s)

Hayakawa

Examiner

Upton

Group Art Unit

1724

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 10-14 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 10-14 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☒ received in Application No. (Series Code/Serial Number) 09/583911
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Love et al or Savage.

Love and Savage disclose coagulating sedimentation tanks having concentric inlet chambers with distributors and additive feeds, and having two annular concentric troughs, on the side wall and intermediate the chamber and the tank, as claimed.

3. Claims 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al or Eis et al.

Walker and Eis disclose coagulating sedimentation tanks having concentric inlet chambers with distributors and additive feeds, and having two annular concentric troughs, as claimed.

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4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Love, Savage, Walker or Eis.

Claim 11 differs from Love, Savage, Walker or Eis in recitation of equal overflow. While not explicitly disclosed by the references, it is submitted that such overflow would have been an obvious matter of process optimization for one skilled in the art, to equalize the overflow and prevent short circuiting, absent a declaration showing unexpected results.

5. Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Lejune.

Lejune discloses a coagulating sedimentation tank having a concentric inlet chamber with distributors, and having two annular concentric troughs with equal overflow (see column 2, lines 51-56), as claimed.

6. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

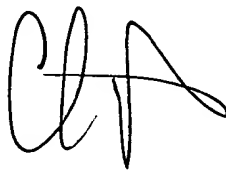
7. Claims 10-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10-14 of U.S. Patent No. 6,334,952. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patented claims obviously comprise the subject matter recited by the instant claims.

Note that, although the instant application was filed as a divisional application, no requirement for restriction was made in the parent application. Therefore, the rejection under obviousness double patenting is proper.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

All references from the parent application have been made of record.

9. Any inquiry concerning this communication should be directed to Christopher Upton at telephone number (703) 308-3741.

A handwritten signature in black ink, appearing to be 'CU' followed by a stylized flourish.

CHRISTOPHER UPTON
PRIMARY EXAMINER